



[6450-01-P]

DEPARTMENT OF ENERGY

5 CFR Chapter XXII

10 CFR Chapters II, III, and X

Reducing Regulatory Burden

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Request for information.

SUMMARY: As part of its implementation of Executive Order 13563, “Improving Regulation and Regulatory Review,” issued by the President on January 18, 2011, the Department of Energy (Department or DOE) is seeking comments and information from interested parties to assist DOE in reviewing its existing regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed. The purpose of DOE’s review is to make the agency’s regulatory program more effective and less burdensome in achieving its regulatory objectives. In this request for information (RFI), DOE also highlights its regulatory review and reform efforts conducted to date in light of comments from interested parties.

DATES: Written comments and information are requested on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are encouraged to submit comments, identified by

“Regulatory Burden RFI,” by any of the following methods:

White House website: <http://www.whitehouse.gov/advice>

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

E-mail: Regulatory.Review@hq.doe.gov. Include “Regulatory Burden RFI” in the subject line of the message.

Mail: U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue, SW., Room 6A245, Washington, DC 20585.

Docket: For access to the docket to read background documents, or comments received, go to the Federal eRulemaking Portal at <http://www.regulations.gov>.

That Department’s plan for retrospective review of its regulations and its subsequent update reports can be accessed at <http://energy.gov/gc/services/open-government/restrospective-regulatory-review>

FOR FURTHER INFORMATION CONTACT: Jengeih Tamba, U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue, SW., Washington, DC 20585, 202-586-5000. E-mail: Regulatory.Review@hq.doe.gov.

SUPPLEMENTARY INFORMATION: On January 18, 2011, the President issued Executive Order 13563, “Improving Regulation and Regulatory Review,” to ensure that Federal regulations seek more affordable, less intrusive means to achieve policy goals, and that agencies give careful consideration to the benefits and costs of those regulations. To that end, the Executive Order requires, among other things, that:

- Agencies propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; and that agencies tailor regulations to impose the least burden on society, consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; and that, consistent with applicable law, agencies select, in choosing among alternative regulatory approaches, those approaches that

maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity).

- The regulatory process encourages public participation and an open exchange of views, with an opportunity for the public to comment.
- Agencies coordinate, simplify, and harmonize regulations to reduce costs and promote certainty for businesses and the public.
- Agencies consider low-cost approaches that reduce burdens and maintain flexibility.
- Regulations be guided by objective scientific evidence.

Additionally, the Executive Order directs agencies to consider how best to promote retrospective analyses of existing rules. Specifically, agencies were required to develop a plan under which the agency will periodically review existing regulations to determine which should be maintained, modified, strengthened, or repealed to increase the effectiveness and decrease the burdens of the agency's regulatory program. DOE's plan and its subsequent update reports can be accessed at <http://energy.gov/gc/services/open-government/restrospective-regulatory-review>.

The Department is committed to maintaining a consistent culture of retrospective review and analysis. DOE will continually engage in review of its rules to determine whether there are burdens on the public that can be avoided by amending or rescinding existing requirements. To that end, DOE is publishing today's RFI to again explicitly solicit public input. In addition, DOE is always open to receiving information about the impact of its regulations. To facilitate both this RFI and the ongoing submission of comments, interested parties can identify regulations that may be in need of review at the following recently established White House website:

<http://www.whitehouse.gov/advise>. DOE has also created a link on the Web page of DOE's

Office of the General Counsel to an e-mail in-box for the submission of comments,

Regulatory.Review@hq.doe.gov.

While the Department promulgates rules in accordance with the law and to the best of its analytic capability, it is difficult to be certain of the consequences of a rule, including its costs and benefits, until it has been tested. Because knowledge about the full effects of a rule is widely dispersed in society, members of the public are likely to have useful information and perspectives on the benefits and burdens of existing requirements and how regulatory obligations may be updated, streamlined, revised, or repealed to better achieve regulatory objectives, while minimizing regulatory burdens. Interested parties may also be well-positioned to identify those rules that are most in need of review and, thus, assist the Department in prioritizing and properly tailoring its retrospective review process. In short, engaging the public in an open, transparent process is a crucial step in DOE's review of its existing regulations.

Recent Successes

Two items on the most recent, January 2014 update are the Alternative Efficiency Determination Methods and Alternate Rating Methods rule (AEDM), and the Test Procedure Waiver rule. Just prior to release of the update, DOE published the final AEDM rule; the final test procedure waiver rule was published shortly after release of the update. Both of these final rules were issued in furtherance of DOE's commitment to the retrospective review of its regulations. In the AEDM rule, DOE revised its regulations on the use of alternatives to testing to certify compliance with applicable energy conservation standards and the reporting of related ratings for covered commercial and industrial equipment. These regulations arose from a negotiated rulemaking effort on issues regarding certification of commercial heating, ventilating, air-

conditioning (HVAC), water heating (WH), and refrigeration equipment. In addition, DOE extended the compliance dates for the initial certification of commercial HVAC, WH, and refrigeration equipment. In the Test Procedure Waiver rule, DOE amends portions of its regulations governing petitions for waiver and interim waiver from DOE test procedures to improve the waiver process. The final rule restores, with minor amendments, text inadvertently omitted in the March 7, 2011 certification, compliance, and enforcement final rule. Additionally, the rule adopts a process by which other manufacturers of a product employing a specific technology or characteristic, for which DOE has granted a waiver to another manufacturer for a product employing that particular technology, would petition for a waiver. The rule also sets forth a process for manufacturers to request rescission or modification of a waiver if they determine that the waiver is no longer needed, or for other appropriate reasons; adopts other minor modifications to the waiver provisions for both consumer products and industrial equipment; and clarifies certain aspects related to the submission and processing of a waiver petition.

List of Questions for Commenters

The following list of questions is intended to assist in the formulation of comments and not to restrict the issues that may be addressed. In addressing these questions or others, DOE requests that commenters identify with specificity the regulation or reporting requirement at issue, providing legal citation where available. The Department also requests that the submitter provide, in as much detail as possible, an explanation why a regulation or reporting requirement should be modified, streamlined, expanded, or repealed, as well as specific suggestions of ways the Department can better achieve its regulatory objectives.

- (1) How can the Department best promote meaningful periodic reviews of its existing rules and how can it best identify those rules that might be modified, streamlined, expanded, or repealed?
- (2) What factors should the agency consider in selecting and prioritizing rules and reporting requirements for review?
- (3) Are there regulations that are or have become unnecessary, ineffective, or ill advised and, if so, what are they? Are there rules that can simply be repealed without impairing the Department's regulatory programs and, if so, what are they?
- (4) Are there rules or reporting requirements that have become outdated and, if so, how can they be modernized to accomplish their regulatory objectives better?
- (5) Are there rules that are still necessary, but have not operated as well as expected such that a modified, stronger, or slightly different approach is justified?
- (6) Does the Department currently collect information that it does not need or use effectively to achieve regulatory objectives?
- (7) Are there regulations, reporting requirements, or regulatory processes that are unnecessarily complicated or could be streamlined to achieve regulatory objectives in more efficient ways?
- (8) Are there rules or reporting requirements that have been overtaken by technological developments? Can new technologies be leveraged to modify, streamline, or do away with existing regulatory or reporting requirements?
- (9) How can the Department best obtain and consider accurate, objective information and data about the costs, burdens, and benefits of existing regulations? Are there existing sources of data the Department can use to evaluate the post-promulgation effects of regulations over time? We

invite interested parties to provide data that may be in their possession that documents the costs, burdens, and benefits of existing requirements.

(10) Are there regulations that are working well that can be expanded or used as a model to fill gaps in other DOE regulatory programs?

The Department notes that this RFI is issued solely for information and program-planning purposes. Responses to this RFI do not bind DOE to any further actions related to the response.

All submissions will be made publically available on. <http://www.regulations.gov>.

Issued in Washington, DC on June 25, 2014.

Steven P. Croley,
General Counsel.

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